

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSHUA J. TANTON,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF  
CORRECTIONS AND  
REHABILITATION,

Defendant.

Case No. 2:25-cv-1390-JDP

ORDER

Shortly after removing this action from the Sacramento County Superior Court, defendant filed a notice of withdrawal of its notice of removal. ECF No. 4. That notice explains that after meeting and conferring with plaintiff, defendant no longer believes that this court has subject matter jurisdiction. *Id.*

Defendant may not simply withdraw its notice of removal. Upon filing the notice of removal in both federal and state court, the state court was divested of jurisdiction.<sup>1</sup> 28 U.S.C. § 1446(d) (removing party shall promptly “file a copy of the notice [of removal] with the clerk of such State court, which shall effect the removal and the State court shall proceed no further unless and until the case is remanded.”); *see Maseda v. Honda Motor Co., Ltd.*, 861 F2d 1248, 1254 n.11

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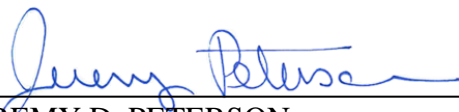
<sup>1</sup> The notice of removal indicates that defendant contemporaneously filing a copy of the notice with the Sacramento County Superior Court. ECF No. 1 at 3.

1 (“[T]he filing of a removal petition terminates the state court’s jurisdiction until the case is  
2 remanded, even in a case improperly removed.”); *Gastelum v. American Family Mut. Ins. Co.*,  
3 2014 WL 7338931, at \* 2 (D. Nev. Dec. 23, 2014) (“It is well established that, ‘Removal divests  
4 the state court of jurisdiction.’”) (quoting *Karl v. Quality Loan Serv. Corp.*, 759 F. Supp. 2d 1240,  
5 1245 (D. Nev. 2010)).

6 Consequently, the state court is without jurisdiction to conduct further proceedings in this  
7 case unless and until it is remanded. Defendant’s notice of removal does not achieve that result.  
8 Instead, to seek remand defendant must file a motion in compliance with Federal Rules of Civil  
9 Procedure and the court’s Local Rules that sets forth the legal basis for remanding the case back  
10 to state court. *See* E.D. Cal. L.R. 230. Alternatively, the parties may stipulate to this case being  
11 remanded. Accordingly, defendant’s notice of withdraw of its notice of removal will be  
12 disregarded, and the case will remain before this court.

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14 IT IS SO ORDERED.

15 Dated: June 10, 2025

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17 JEREMY D. PETERSON  
18 UNITED STATES MAGISTRATE JUDGE  
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